IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1122 OF 2007

Vijay Namdeorao Pawar :: PETITIONER

-: Versus :-

M.S.R.T. Corporation & others :: RESPONDENTS

CORAM: R. V. MORE, J.
DATED: 04th April, 2007.

P.C. :

1. Heard Mr. A. H. Jamal, learned Counsel for the petitioner and Mr. V. G. Wankhede, learned Counsel for respondents.

2. The present writ petition takes exception to the order whereby the petitioner was transferred from Wardha to Chandrapur on 01/6/2006. The petitioner is working as Sectional Engineer with the M.S.R.T. Corporation and his transfer was effected by the Regional Manager, MSRTC-respondent No. 3. The petitioner challenged the aforesaid transfer order by filing Complaint (ULPN) No. 215 of 2006 before the Industrial Court, Nagpur Bench, Nagpur. The petitioner's complaint came to be

dismissed by the order dated 12/01/2007 which is impugned in the petition.

3. The only ground on which the transfer order is challenged is that the order of transfer was issued by respondent No.1 who has no authority and the authority to transfer the employee like the petitioner is vested in the General Manager-respondent No.1 with the permission of Vice Chairman and Managing Director of the MSRTC. The learned Member of the Industrial Court has considered all the aspects of the matter and recorded finding that the Board of Directors of MSRTC by passing resolution dated 23/12/2005 delegated powers of transfer to the Chief Civil Engineer, i.e. respondent No.2. Further finding is recorded that respondent No.2 by his letter dated 23/6/2006 issued to respondent No.3 directed petitioner's transfer and the petitioner is transferred by respondent No.3 in pursuant of this letter of respondent No.2. Therefore, I find no merit in the contentions of the petitioner that transfer order is not issued by the competent authority.

4. The learned Counsel for the petitioner relied upon the decision of the Supreme Court in the case of Maharashtra State Mining Corporation vs. Sunil Pundikarao Pathak reported in **2006 II CLR SC 389**. I have gone through this decision. The Hon'ble Supreme Court in the said matter was

considering the effect of ratification. In the present case the transfer order was issued with prior approval of the competent authority and, therefore, there is no question of ratification. In view of this, the ratio of Supreme Court's decision cannot be made applicable to the facts and circumstances of the present case.

5. The learned Counsel for the respondents pointed out that the petitioner is working at Wardha since last 13 years. It is not the case of the petitioner that he was transferred malafidely. The transfer is an incidence of service and, therefore, no interference is required to be made in the writ jurisdiction under Article 227 of the Constitution. There is no substance in the writ petition and the same is, therefore, dismissed with no order as to costs.

6. The learned Counsel for the petitioner at this stage makes a statement that the petitioner is not relieved till today and requests for status-quo for a period of two weeks.

7. If that be so, status-quo may be maintained for a period of only one week from today.

JUDGE

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